

REMARKS***Status of the claims***

Claims 1-22 were pending. By virtue of this amendment, claims 1-8, 11-12, and 16-22 have been canceled, claims 9 and 15 have been amended, and claims 23-38 have been added. Accordingly, claims 9-10, 13-15, and 23-38 are pending.

Support for the claim amendments and new claims is provided in the specification and the claims as filed. The amendments to claim 9 are supported, for example, in paragraphs [0137], [0098], and [0099]. The amendments to claim 15 are supported, for example, in paragraphs [0031] and [0043]-[0045], and [0086]. New claim 23 is supported, for example, in paragraph [0137]. New claim 24 is supported, for example, in paragraph [0098]. New claims 25-29 are supported, for example, in claims 2-7 as filed. New claim 30 is supported, for example, in paragraphs [0143] and [0145], and in Examples 1-4. New claim 31 is supported, for example, in Examples 1-4. New claims 32-36 are supported, for example, in claims 2-7 as filed, in paragraphs [0032]-[0038]. New claim 37 is supported, for example, in paragraph [0137]. New claim 38 is supported, for example, in paragraphs [0098]. New claim 39 is supported, for example, in paragraphs [0043]-[0045], [0086], [0143], [0145], and Examples 1-4.

With respect to claim amendments and canceled claims, Applicants have not dedicated to the public or abandoned any unclaimed subject matter and moreover have not acquiesced to any rejections and/or objections made by the Patent Office. Applicants expressly reserve the right to pursue prosecution of any presently excluded subject matter or claim embodiments in one or more future continuation and/or divisional application(s).

Restriction requirement

The Office has required restriction between the following inventions under 35 U.S.C. 121:

- I. Claims 1-8, drawn to a DNA expression vector comprising a first DNA sequence comprising the coding sequence for one or more protein having a detectable signal, one or more 3' UTR sequence and one or more expression control sequence operatively associated with said coding sequence, and a heterologous instability sequence inserted into said 3' UTR sequence, classified in class 435, subclass 320.1.
- II. Claims 9, 15-17 and 19-22, drawn to a stably transfected cell line or a system comprising a DNA expression vector comprising a first DNA sequence comprising the coding sequence for one or more protein having a detectable signal, one or more 3' UTR sequence and one or more expression control sequence operatively associated with said coding sequence, and a heterologous instability sequence inserted into a said 3' UTR sequence, and a control expression vector, a kit comprising said assay system classified in class 435, subclass 325.
- III. Claims 10-14 and 18, drawn to a method of screening for one or more compound which affect mRNA stability comprising providing a DNA expression vector is capable of expressing a protein in the absence of a compound, wherein the vector comprises at least one copy of a heterologous mRNA stability sequence; contacting said DNA expression vector with at least one test compound, measuring the detectable signal, comparing the signal with a control, classified in class 435, subclass 455.

Applicants hereby elect Group II, without traverse. Applicants expressly reserve their right under 35 U.S.C. §121 to file one or more divisional applications directed to the nonelected subject matter during the pendency of this application, or an application claiming priority from this application.

Applicants hereby request examination of the elected subject matter on the merits.

The Office Action also required an election of species of a gene encoding a polypeptide recited in claim 7. In view of the election of Group II, which does not encompass claim 7, this requirement is moot.

In the unlikely event that the transmittal form is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing (608352000100). However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: September 14, 2006

Respectfully submitted,

By Jill A. Jacobson
Jill A. Jacobson
Registration No.: 40,030
MORRISON & FOERSTER LLP
755 Page Mill Road
Palo Alto, California 94304-1018
(650) 813-5876